

REMARKS

The undersigned expresses appreciation to the Examiner for the courtesies extended during the Examiner Interview held on May 11, 2006. I now briefly summary the scope of that Examiner Interview. As a preliminary matter, we discussed the prior art status of *DeWeese* (U.S. Patent Publication No. 2005/0262542). Since the parent provisional application is not open for public inspection and is needed in order to assess whether or not *DeWeese* is truly prior art, I requested a copy of the provisional patent application from the Examiner. The Examiner indicated that he would provide a copy of the provisional patent application in the next action, or at least after this response is filed. Additionally, we discussed *DeWeese* and its application to independent Claim 58, should the prior art status of *DeWeese* become established. While agreement was not reached and a further evaluation of *DeWeese* and/or a further search may be required, we discussed possible amendments to the claims.

However, subsequent to this discussion with the Examiner, I requested a copy of the provisional patent application so that as to review the provisional patent application even before we file a response to the Office Action. The undersigned thanks the Examiner for providing the copy of the parent provisional application for *DeWeese* for this purpose.

Applicants respectfully request reconsideration and allowance of the above-identified patent application in light of the following remarks. Claims 58-75, 77-89, and 92-107 remain pending, of which claims 58 and 94 are independent method claims with corresponding independent computer program product claims 99 and 73 respectively, and in which claims 105-107 are additional independent method claims.

The Office Action (hereinafter simply referred to as the "Office Action"), mailed January 30, 2006, considered and rejected claims 58-75, 77-89 and 92-106. Claims 58-67, 71-75, 77-81, 85-89 and 92-106 were rejected under 35 U.S.C. 103(a) as being unpatentable over *DeWeese* (U.S. Patent Publication No. 2005/0262542) in view of *Nishi* (U.S. Patent No. 6,681,395). Claims 68-70 and 82-84 were rejected under 35 U.S.C. 103(a) as being unpatentable over *DeWeese* in view of *Nishi* as applied to claims 65, 79 respectively, and further in view of *Knudson et al.* (U.S. Patent No. 6,526,577).

The undersigned respectfully requests withdrawal of all of these rejections since, as will be established herein, *DeWeese* is disqualified as prior art with respect to the present patent application. *DeWeese* does not qualify as prior art under 35 U.S.C. 102(a), or (b) being published

well after the filing date of the present patent application, nor any other provision of 35 U.S.C., section 102. The undersigned used the parent provisional patent application provided by the Examiner to investigate whether or not *DeWeese* qualifies as prior art under 35 U.S.C. 102(e).

Here, the only application in the entire chain of priority of *DeWeese* that predates the filing date of the present application is the parent provisional patent application. However, the provisional filing date of the parent application for *DeWeese* may only be relied upon if the parent provisional application supports the material relied upon by the Examiner in making the rejection (see e.g., MPEP, 2136.03(III)). A comparison of the parent provisional patent application for *DeWeese* and the subsequently filed utility patent applications including *DeWeese* reveals that the scope of disclosure of the parent provisional application is much more limited than the subsequently filed non-provisional patent applications. In fact, the provisional patent application includes just one single page. The Office Action relies on quotes from the subsequently filed non-provisional patent applications to support the rejection. It is therefore quite natural that the much shorter provisional patent application does not support that language relied upon by the Office Action in making the rejection. In fact, the undersigned could not find any language from the parent provisional patent application that fully supported any of the passages relied upon by the Office Action to make any of the rejections. Accordingly, *DeWeese* does not qualify as prior art, and thus all of the rejections should be withdrawn.

Therefore, favorable action is respectfully requested. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorneys.

Dated this 8th of June, 2006.

Respectfully submitted,

WORKMAN NYDEGGER



RICK D. NYDEGGER
Registration No. 28,651
ADRIAN J. LEE
Registration No. 42,785
Attorneys for Applicant
Customer No. 047973